THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18086 OF 1996

DATED: 19-01-2007

–

Between :

1. C. Ravinder Reddy and 9 others. .. Petitioners

And

1. Union of India, rep. by its Secretary, Ministry of Agricultural, Krushibhavan, New Delhi., and 6 others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18086 OF 1996

–

ORDER :

The Government of India, Ministry of Food, Agricultural and Community Development and Co-operation propounded a scheme for creation of Agro Service Centres in rural areas in the year 1971 with an objective of providing employment to the unemployed Engineers and technically trained personnel.

The petitioners herein had started Agro Service Centres in different districts by availing financial assistance from the respondents 4 to 7 herein. However, the scheme could not be properly implemented due to various reasons and several entrepreneurs who started Agro Service Centres under the scheme filed writ petitions in various High Courts questioning the steps initiated by the financial institutions for recovery of the loans. The matter went up to the Supreme Court and ultimately W.P.No.5291 of 1980 filed by the Association of Andhra Pradesh Agro Service Centres was disposed of by the Supreme Court by order dated 30-9-1985 with certain directions. So far as the recovery of amounts from the Agro Service Centres is concerned, the Supreme Court directed that in case those Agro Service Centres were closed down prior to 1-3-1993 the Banks/Financial Institutions shall not be entitled to charge or recover penal or compound interest. However, it was made clear

that such direction is not applicable to cases where the decrees have already been obtained by the Banks/Financial Institutions and have become final. So far as the revised claim for rehabilitation is concerned, the Supreme Court directed that the said revised scheme is applicable only to those Agro Service Centres which are functioning as on 1-3-1993. It was also directed that the committees contemplated by the said Scheme shall be constituted forthwith and they shall take steps to rehabilitate the Agro Service Centres identified as viable. It was further made clear that whether a particular Agro Service Centre is functioning as on 1-3-1993 or not or closed prior to the said date shall be decided by the concerned Bank/Financial Institution on the basis of documentary evidence produced before it and in case of any dispute it shall be open to either party to approach the District Level Appraisal Committee constituted under the revised scheme, the decision of which shall be final on the said question.

In the instant case, it is contended by the petitioners that no such District Level Appraisal Committees were constituted by the Government of India in spite of the directions of the Supreme Court and consequently the question whether they are entitled for rehabilitation under the revised scheme or not could not be decided so far. It is alleged that in the meanwhile the respondents have been taking steps for recovery of the amounts from the petitioners. Hence, this writ petition seeking a declaration that the inaction on the part of the respondents in deciding as to viability of the petitioner service centres in terms of the directions of the Supreme Court is arbitrary and illegal.

Pursuant to the notice ordered, the 3rd respondent filed a counter-affidavit stating that since the Agro Service Centres are not in existence for the last 16 years, the question of constituting District Level Appraisal Committee does not arise. It is also stated that the Corporation is only a Nodal Agency and therefore it has nothing to do with the constitution of the Committees.

In the counter-affidavit filed on behalf of the 4th respondent, it is stated that the 9th petitioner was sanctioned a loan of Rs.70,000/- in the year 1975 an since he failed to repay the same, a civil suit was filed on 8-9-1980 and the same was decreed on 12-2-1988. Subsequently, Execution Petition has also been filed and the same is pending.

I have heard the learned Counsel for both the parties.

It is clear from the directions of the Supreme Court in W.P.No.5291 of 1980 that the waiver of penal interest is not applicable to the cases where the decrees have already been obtained by the Banks/Financial Institutions which have become final. The benefit of waiver of penal interest was extended only to those cases in respect of which the suits for recovery of the amounts due are still pending. Hence, the contention of the petitioners that unless the viability of the Agro Service Centres as on 1-3-1993 is decided by the District Level Appraisal Committee, no steps can be taken by the financial institutions for recovery of the amounts due cannot be accepted. Consequently, the failure on the part of the Central Government to constitute the

District Level Appraisal Committees cannot be held to be a ground to issue a Mandamus restraining the respondents 4 to 7 from recovering the amounts if any due from the petitioners.

For the aforesaid reasons, no Mandamus as prayed for can be issued. However, having regard to the facts and circumstances of the case, the Writ Petition is disposed of with a direction to the respondents to take the appropriate steps strictly in accordance with the directions issued by the Supreme Court of India in W.P.No.5291 of 1980 so far as the recovery of the amounts, if any, due from the petitioners is concerned.

Writ Petition is accordingly disposed of. No costs.

G. ROHINI, J.

Dt. 19-1-2007
gbs